

State of New York)
) ss
County of Columbia)



115

I, Burt Swersey, a resident of Stephentown, New York, being duly sworn depose and say:

1. I am a Lecturer in the Department of Mechanical Engineering, Aeronautical & Nuclear Engineering at Rensselaer Polytechnic Institute, Troy, New York (RPI). One of my responsibilities as a Lecturer is to conduct and supervise a course entitled Inventor's Studio. Pursuant to this course, since 1998, approximately 30 teams of students of RPI have been assigned to design and develop inventions in various field of endeavor under the obligation of assigning all rights to the invention to RPI. In addition, patent applications have been filed for those inventions that appeared to be of economic value, that were developed in other design courses. Costs of preparing and filing these patent applications were funded through grants received by RPI. US Patents 5,961,425 (Jump Rope Device) and 6,095,952 (Exercise Device) have been obtained and assigned to RPI.

2. In the Fall semester of 1999, a team of students consisting of Marcie Howard, Elias Kaplan, Jennifer Lamana, Stephen Howard, Dean Meloney and John Weed was formed under the auspices of the Course to design and develop a differential permeometer. On March 8, 2000, a Provisional Patent Application entitled Differential Permeometer was filed under Provisional Application No. 60/187,931 naming the members of the team as the inventors. In April 2000, several members of the team executed a formal Assignment of the Provisional Application and the invention described therein to RPI

3. In the Fall semester of 2000, Timothy Novak was added to the team of students named above to further develop the differential permeometer. A Non-Provisional patent application was subsequently filed under Serial No. 09/800,872 on March 7, 2001 claiming priority of the earlier filed Provisional Application 60/187,931 and adding Timothy Novak and myself as joint inventors.

4. Declarations of inventorship have been obtained from all of the named inventors except for Elias Kaplan and are being filed under separate cover.

5. Elias Kaplan was no longer a student at RPI in March, 2001, when the Application was filed.

6. I have made a diligent effort to find or reach Elias Kaplan by sending emails to his last known email address on July 25, 2001 and August 22, 2001. No replies have been received from Elias Kaplan. Copies of two emails sent to Elias Kaplan are attached. I have also tried to reach Mr. Kaplan at his last known telephone number, and by writing to him at his last known address on July 25, 2001.

7. Elias Kaplan is a citizen of Argentina and his last known address was his residence while a student at RPI, namely 420 Sand Creek Rd Apt 212, Albany NY 12205.

8. Elias Kaplan had and has an obligation to assign Patent Application Serial No. 09/800,872 to RPI because that is a condition for all students enrolled in Inventor's Studio.

9. As a joint inventor named in said Patent Application, Serial No. 09/800,872 filed March 7, 2001, I am making this application on his behalf: that he is an original joint inventor of the subject matter claimed and for which a patent is sought on the invention entitled DIFFERENTIAL PERMEOMETER; that, on information and belief, I understand that he has reviewed and understands the contents of the above identified application, including the claims; and that he has acknowledged the duty to disclose information which is material to the patentability of this application in accordance with Title 37 Code of Federal Regulations Section 1.56(a).

10. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that wilful false statements and the like so made are punishable by fine or

imprisonment or both under Section 1001 of Title 18 of the United States Code and that such wilful false statements may jeopardize the validity of the application or any patent issued thereon.

Further, deponent saith not

Burt L. Swersey
Burt L. Swersey
Lecturer
Rensselaer Polytechnic Institute

Sworn to before me this 31
of August 2001

Judith T. Penta
Notary Public
(seal)

JUDITH T. PENTA
Notary Public, State of New York
Qualified in Schoharie County
Reg. No. 0021460
My Commission Expires 12/31/2002

My commission expires :

#114593